

Filed for intro on 02/02/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate No. SB0907  
By Cooper

AN ACT to amend Tennessee Code Annotated, Title 45, relative to pawnbrokers or title pledges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-6-203(2), is amended by adding the following new subdivision (C):

(C) "Title pledge" means any written agreement whereby a pawnbroker agrees to make a loan of money to a pledgor, and the pledgor agrees for the pawnbroker to place a lien on the title of a motor vehicle owned by the pledgor. The pledgor shall agree for the pawnbroker to keep possession of the certificate of title. The pledgor shall have the exclusive right to redeem the title by repaying the loan of money in full and by complying with the title pledge pawn agreement made in accordance with this act. When the title is redeemed, the pawnbroker shall release the lien placed on the title by the pawnbroker and return the certificate of title to the pledgor. The agreement shall provide that upon failure by the pledgor to redeem the title at the end of the agreement period, the pawnbroker shall be allowed to take possession of the motor vehicle providing such pawnbroker complies with the provisions of Section 9 of this act. For the purposes of

this act, possession of any motor vehicle certificate of title which has come into the possession of a pawnbroker through a lawful pawn transaction shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker shall retain physical possession of the motor vehicle certificate of title for the entire length of the pawn transaction, but shall not be required in any way to retain physical possession of the motor vehicle at any time. A pawnbroker may only hold unencumbered motor vehicle titles for pledge and may not make title pledges to any pledgor whose driver license is suspended or revoked at the time of the title pledge agreement. Title pledges made pursuant to this section shall not be subject to Tennessee Code Annotated, Section 45-6-212(8) or 46-6-215.

SECTION 2. Tennessee Code Annotated, Section 45-6-203(3), is amended by adding the words and punctuation “, motor vehicle certificates of title,” after the word “stocks”.

SECTION 3. Tennessee Code Annotated, Section 45-6-203(6), is amended by adding the words “or motor vehicle certificates of title” after the word and punctuation “property;”, deleting the word “is” and by substituting instead the word “are” and by deleting the word “actually”.

SECTION 4. Tennessee Code Annotated, Section 45-6-204(a)(3) is amended by adding the words and punctuation “motor vehicle certificates of title,” after the word and punctuation “stocks,”.

SECTION 5. Tennessee Code Annotated, Section 45-6-204(a)(5), is amended by adding the words and punctuation “motor vehicle certificates of title,” after the word “stocks”.

SECTION 6. Tennessee Code Annotated, Section 45-6-204(b), is amended by deleting the subsection in its entirety and by substituting instead the following new language:

Pawnbrokers lawfully licensed in accordance with this act shall not have the powers enumerated in this section without first complying with the law regulating the particular transaction involved, but pawnbrokers exercising any of the powers set forth in subsection (a) hereof in compliance with this act’s provisions shall not

be deemed in violation of Tennessee Code Annotated, Sections 47-9-504(3), 47-14-112, 47-14-115, and 47-14-117.

SECTION 7. Tennessee Code Annotated, Title 45, Chapter 6, Part 2, is amended by adding the following new section:

Agreements pursuant to Section 1 of this act or pursuant to Tennessee Code Annotated, Section 45-6-203(2)(B), shall not exceed thirty (30) days; however, such agreements may provide for automatic renewals for thirty (30) day periods unless one of the following has occurred:

- (1) The pledgor has redeemed the pledged property by paying all principal, interest, and customary fees due in accordance with the pawn agreement; or
- (2) The pledgor has surrendered possession, title and all other interest in and to the pledged property to the pawnbroker;
- (3) The pawnbroker notifies the pledgor in writing fifteen (15) days prior to the next possible renewal date that the pawn agreement will not be renewed; or
- (4) Upon default by pledgor.

SECTION 8. Tennessee Code Annotated, Section 45-6-210, is amended by deleting in its entirety the language following the semicolon (;) and by substituting instead the following language:

except that the pawnbroker may charge, contract for, and receive a customary fee for investigating the title, storage, insuring the security, closing the loan, making daily reports to local law enforcement officers, and for other expenses or losses of every nature whatsoever and for all other services. Such a fee when made and collected shall not be deemed interest for any purpose of law, and such fee may equal no more than one-fifth (1/5) of the original principal amount of the pawn agreement, except a pawnbroker may always charge a fifty dollar

(\$50) fee. Additionally, a pawnbroker may charge an additional fee for noting a lien on a motor vehicle title; however, such fee shall not exceed the amount charged to the pawnbroker by the governmental entity required to record the lien.

SECTION 9. Tennessee Code Annotated, Section 45-6-211, is amended by deleting the section in its entirety and by substituting instead the following new language:

(a) In every transaction made in accordance with Tennessee Code Annotated, Section 45-6-203(2)(B), the pawnbroker shall retain possession of every pledge or pawn thirty (30) days after maturity of the thirty (30) day pawn agreement. If the pledgor fails to redeem the pledged property before the lapse of the thirty (30) day holding period, the pledgor shall thereby forfeit all right, title, and interest in and to the pledged property, to the pawnbroker, who shall thereby acquire an absolute title to the pledged property, and the pawnbroker shall have the authority to sell or dispose of the unredeemed pledged property in accordance with the pawn agreement.

(b) In every transaction made in accordance with Section 1 of this act, upon the default of the pledgor, the pawnbroker may obtain possession of the motor vehicle.

(1) After the pawnbroker has held the motor vehicle for thirty (30) days, and if during the thirty (30) day holding period, the pledgor pays the repossession fee, pays a garage fee not to exceed five dollars (\$5) per day for each day that the motor vehicle is held by the pawnbroker during the holding period, and redeems the motor vehicle by paying all outstanding principle, interest, and other customary fees, the pledgor shall be given possession of the motor vehicle without further charge.

(2) If during the thirty (30) day holding period, the pledgor has failed to redeem the motor vehicle, then the pledgor shall thereby forfeit all right, title and interest in and to the motor vehicle, to the pawnbroker, who shall thereby acquire an absolute title to the motor vehicle. The pawnbroker shall then have the sole right and authority to dispose of the unredeemed motor vehicle.

(c) However, if the pledgor loses the pawn loan agreement or other evidence of the pawn transaction, the pledgor shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall in all respects replace and be substituted for the lost evidence of the pawn transaction.

SECTION 10. Tennessee Code Annotated, Section 46-6-213(a), is amended by deleting the word "local" in the second sentence.

SECTION 11. Tennessee Code Annotated, Title 45, Chapter 6, Part 2, is amended by adding the following new section:

Pawnbrokers providing title pledge services shall not charge a motor vehicle repossession fee in excess of one hundred fifty dollars (\$150) per vehicle unless the vehicle is repossessed more than fifty (50) miles from the pawnbroker's place of business, in which case repossession fees shall be limited to one hundred fifty dollars (\$150) plus one dollar (\$1) for each mile over fifty (50) miles. Unless otherwise agreed, a pawnbroker has upon default, the right to take possession of the motor vehicle. In taking possession, the pawnbroker or his agent may proceed without judicial process if this can be done without breach of the peace or may proceed by action.

The pawnbroker shall be required to note liens on the motor vehicle title.

SECTION 12. Tennessee Code Annotated, Title 45, Chapter 6, Part 2, is amended by adding the following new section:

No action shall be brought by a pledgor against a pawnbroker under the provisions of Title 45, Chapter 6, more than one (1) year after the date of the pawn transaction.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.

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